

1904-047 Chancery Causes: William J. Milham vs. Mary T. Orr & Lee Co

Umbarger

CA-Debt
T-Property

-Deed

To the Hon. H. A. W. Skeen, Judge of the circuit court, for Lee county, Virginia.

Humbly complaining, your complainant, William J. Mileham, would respectively represent and show unto your honor, that on the 12th day of December, 1903, he was seized and possessed of a certain house and lot, situated in the town of Penningtin Gap, Lee county, Virginia, and known on the plan and plat of the said town, as lot No. 2, in block No. 8 and fronting on Morgan Avenue, and is more particularly described by deed dated on the day and year aforesaid and executed by Wm. J. Mileham and wife to Nancy T. Orr, Lavina M. Orr and Sarah K. Umbarger. An attested copy of said deed is ~~xx~~ herewith filed Marked, "Exhibit A" and asked to be treated as a part of this bill.

And being so seized and possessed, your complainant on the day and year aforesaid, contracted to sell and did sell the said house and lot to Nancy T. Orr and Sarah K. Umbarger for the sum or consideration of three hundred (\$300.00) dollars, one hundred (\$100.00) dollars of which was paid cash in hand and one hundred (\$100.00) dollars to be paid on or before March 15th, 1904, with interest from date, and evidenced by the note or bond of the said Nancy Orr and Sarah Umbarger, due and payable at the time aforesaid, and in which they waived the benefit of their homestead exemptions. Said note or bond is here filed and made a part of this bill, marked "Exhibit B" The residue of the said purchase money of one hundred (\$100.00) dollars is not yet due.

Your complainant alleges that the note or bond of one hundred (\$100.00) dollars herewith filed as "Exhibit B", is just, due, owing and unpaid, and from an inspection of the deed filed herewith marked "Exhibit A", your Honor will see, that your complainant retained a vendor's lien in said deed to secure the payment of the unpaid purchase money.

Your complainant therefore alleges that he has a right to enforce his said vendor's lien for the purchase money that is due and unpaid against the house and lot, described in said deed.

Your complainant therefore prays, that the said Nancy T. Orr, Lavina M. Orr and Sarah K. Umbarger be made parties defendant to this bill and answer the same, but not on oath that being waived; that your complainant's vendor's lien for the amount of the purchase

(2)

money due against said house and lot, be enforced; that your Honor grant a decree for the ~~amount~~ amount due and a sale of the said house and lot, or a sufficiency thereof to pay said sum. and your complainant prays for all other relief generally that the case may require or to equity seem meet and will ever pray etc.

M. G. Ealy, p.g.

\$1.00...⁰⁰

Pennington Gap, Va. Dec. 12th 1903

On or Bfore March 15th 1904 ^{days} after date we or either of us
promise and bind Ourselves to pay to Wm. J. Miliham
with interest from date

One Hundred — — — Dollars

for value received. And as to the payment of this debt we hereby
waive the benefit of the Homestead law and exemptions.

Given under Our hands and seals this the 12th day of Dec 1903

WITNESS:

Gus King

Fancy (Seal)
Sarah (Seal)
Wash (Seal)

W. J. Milburn

"B"

~~PAY ANY BANK OR BANKER,
OR
POWELL'S VALLEY BANK,
JONESVILLE, VA.
G. E. COOK, Cashier.~~

This deed made and entered into this the 12th day of December 1903, by Wm. J. Milham and Mollie E. Milham his wife parties of the first part and Nancy T. Orr, Lavina M. Orr and Sarah K. Umbarger parties of the second part, and all of Lee County Virginia;

Witnesseth; That for and in consideration of the sum of Three hundred dollars paid and to be paid by the said second parties to the said Wm. J. Milham as follows; One hundred dollars thereof in hand paid, the receipt whereof is hereby acknowledged, and one hundred dollars thereof on or before the 15th day of March 1904, and the residue that is the sum of One hundred dollars twelve months after this date which deferred payments are evidenced by the notes of the said second parties except as to Lavina M. Orr bearing date to day, and with interest from this date, they the said parties of the first part reserving a vendors lien in and upon the same to better secure the payments of the said deferred payment, do and each of them doth hereby give, grant, bargain and sell and convey unto the said second parties one certain lot or parcel of land lying and being in Lee County Virginia, in the town of Pennington Gap and known on the plat and plan of said town as lot number two in Block Number eight and fronting on Morgan Avenue thirty three and one-third feet and running back at right angles to the said avenue one hundred and seventy ^{five} feet and thus forming a parallelogram of 33 1/3 feet by 175 feet and being the same lot of land which the Pennington Gap Improvement Company, on August 21st 1891, conveyed to one Sarah C. Myers and by her afterwards conveyed to the said Wm. J. Milham.

To have and to hold the said lot or parcel of land with all its appurtenances and improvements unto the said second parties their heirs and assigns forever in fee simple. And the said first parties for themselves, their heirs and assigns covenant with the said second parties their heirs and assigns that said lot of land with all its appurtenances are free from all encumbrances; that they have done no act to encumber the same; that the said second parties their heirs and assigns shall have quiet and peaceable possession

of the said lot of land and its appurtenances and improvements on and after the first day of January 1904; that they will warrant generally the title thereto; and that they will execute such further assurances of title as may be requisite or reasonably required by the said second parties, their heirs and assigns or their attorney to make the same sure and complete.

Witness the following signatures and seals.

Wm. J. Mileham (Seal)

Mollie E. Mileham (Seal)

Virginia, Lee County to-wit:

I, C. D. Smith, a Justice of the Peace in and for the County and State aforesaid, do hereby certify that Wm. J. Mileham and Mollie E. Mileham whose names are signed to the writing above bearing date on the 12th day of December 1903, have acknowledged the same before me in my County aforesaid.

Given under my hand this the 12th day of December 1903.

C. D. Smith, J' P.

Virginia, Lee County to-wit:

In the office of the Clerk of the County Court for said County, the 14th day of December 1903. This deed was presented, and together with the certificate of acknowledgment thereto annexed admitted to record.

Teste: B. M. Morgan, Clerk.

A Copy, Teste: H. L. Morgan Clerk.

(D. B. No. 41 page 51)

A COPY, Teste:

CLERK.

Teste: B. M. Morgan,

Clerk.

admitted to record.

and together with the certificate of acknowledgment thereto unrecorded
County, the 14th day of December 1902. This deed was presented,

In the office of the Clerk of the County Court for said
Virginia, Lee County so-wit:

C. D. Smith,

Clerk.

Given under my hand this the 14th day of December 1902.

same being duly acknowledged by my County clerk.

Wm J Milham
To & Deed
Lavina Orr et al

Copy

"a"

Willie N. Milham (Seal)
Wm. J. Milham (Seal)

Witness the following signatures and seals.

To make the same entire and complete.

the said second parties, their heirs and assigns or their attorney
assurances of title as may be required or reasonably required by
generally the title thereto; and that they will execute such further
and after the first day of January 1904; that they will warrant
of the said lot of land and its improvements and improvements on

Clerk 65-cs

1864
vs. J. Mikeham Plff.
vs. E. Billinchaury
Nancy J. pr and others

1904 2nd April rule bill
filed Sp. Executed + D.N.
1st May rule D.N. Con-
firmed & cause set for
hearing.

Costs:

Clerk. \$5.97

Shff. \$2.00

Atty. 15.00

Estimated 5.00
\$27.97

Tax 1.50
\$29.47

D. 200.00

Int. 7.60

can. 11.85

\$248.92

H. C. Joslyn. July 23rd 1900

William J. Mileham, Plff.

vs. (In Chancery.

Nancy T. Orr, et al., Defts.

This cause came on this day to be heard upon the papers formerly read in the cause and report of sale of M. G. Ely, Com'r., and was argued by counsel.

On consideration, it is adjudged, ordered and decreed, that said report and sale be approved and confirmed, and it appears from said report that the whole amount of the purchase money has been paid by the purchaser in full.

It is further adjudged, ordered and decreed, that M. G. Ely, who is hereby appointed commissioner for the purpose ^{to} make and execute to the purchaser, H. C. Joslyn, a deed with covenants of special warranty, to the house and lot purchased by him in this cause. Said commissioner will disburse the costs and purchase money to those entitled thereto and report to the court; and the said deed having been made and filed in this cause and having been seen and inspected by the court, is approved and confirmed; and said purchaser H. C. Joslyn, may withdraw said deed for purpose of recordation; and he will also pay to M. G. Ely, Commissioner, the sum of \$5.00 for executing said deed for which execution may issue. And nothing further remaining to be done, this cause is stricken from the docket.

Wm J. Milham Plff-
vs. Decree Final.

Nancy J. Orr ad others,

Entered C.R. No. 7,
page 507

Wm J. Milham
H W 81

W. J. Mileham,Plff.

vs. (In Chancery.

Nancy T. Orr, et al.Defts.

This cause came on this day to be heard upon the bill of complaint, as exhibit filed therewith, and was argued by counsel.

On consideration of which, the process having been duly executed on the defendants, Nancy T. Orr, Lavina Orr and Sarah K. Umbarger, as required by law, and they failing to appear, answer, plead ~~and~~ demurr, the bill is taken as confessed as to them, and it is adjudged ordered and decreed that W. J. Mileham recover of Nancy T. Orr and Sarah K. Umbarger the sum of \$100.00 with interest thereon from the 12th day of December, 1903, till paid, and costs of this suit.

And the court further being of opinion that said amount is a lien on a house and lot described in said bill, in favor of the plaintiff. It is further adjudged, ordered and decreed, that unless said recovery, is paid within thirty days from the rising of this court, then M. G. Ely, who is hereby appointed special commissioner for the purpose, will advertize and sell the house and lot described in the bill and proceedings, or a sufficiency thereof to pay the recovery as aforesaid.

The said sale will be on credit of six and twelve months, except costs of the suit and commissions of the sale, which will be required to be paid cash in hand, and for the deferred payments, notes with good security will be taken, bearing interest from the day they are taken.

Said sale will be made at the front door of the court house of Lee county after having been advertized for 30 days, and notice posted at the front door of the court house and at the post office in Pennington Gap.

~~but before~~ commissioner performs the duties required of him in this decree, He will execute bond before the clerk of this court for the sum of \$100.00 conditioned according to law, report to the court and the cause is continued.

W. J. Milham.

vs. { { { Deere.

Nancy J. our itals

En C.B. No. 7,

Page 463.

Enter this

H. A. W. S. Keen

May. 18th. 1904

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of
Lee County Va.

Your undersigned Commissioner in the Chancery Cause of
W.J.Mileham against Nancy T.Orr and others, pending in your honor's
court, begs to report that pursuant to a decree entered in said cause
at the May term 1904 of your honors court, he on the 23'day of July
1904 at the front door of the Court house of Lee county, after
having advertised for 30 days, proceeded to sell the house and lot
described in the said bill pursuant to the terms of the decree and
H.C.Joslyn became the highest and best bidder at the price of \$219.

Said purchaser paid the whole of the purchase money down, and is
entitled to a deed, if said sale is confirmed, which your Commissioner
recommends to be done.

Respectfully Submitted.

Mr. Y. Ely
Special Commissioner.

W. J. Michham
vs E. Report of sale.
Nancy J. Orchole.

Filed July 29th 1904
H. B. Ewing
Clerk.



\$41⁰⁰

Jonesville Va. July 23-1904
Received from H. C. Joslyn
Forty one & 00/100 Dollars,
costs & commissions in Chancery cause of
W. J. Mikeham vs. Nancy Toritto,
M. G. Ely
Clerk.

$$\begin{array}{r}
 21900 \\
 \underline{750} \\
 21950 \\
 \underline{4050} \\
 0
 \end{array}$$

$$\begin{array}{r}
 9121 \\
 \underline{40} \\
 1721 \\
 \underline{3.75} \\
 175.75 \text{ to m} \\
 \underline{36.25 \text{ to E}} \\
 \$21200
 \end{array}$$

Land Sale.

W. J. Milcham

vs.

Nancy J. Orr et al.

IN CHANCERY.

Pursuant to decree of the Circuit Court of Lee County, Virginia, at the *May* term, 190*4*, in the above styled cause, the undersigned will, at public outcry, at the front door of the Courthouse of said county, on the first day of the *23rd day of July*, term, 190*4*, of the County Court of said county, proceed to sell, to the highest and best bidder, on a credit of *one & two years* time, except so much as may be necessary to pay the cost of suit and expense of sale [which are required to be paid in hand], the following described property: *a house and*

lot situated in Pennington Gap, Va., adjoining the Southern Methodist Parsonage property, being what is known as James Myers property

Bonds with good and approved personal security will be required of the purchaser for the deferred payments. This *16th* day of *June*, 190*4*

W. J. Milcham, Commissioner.

The Bond required by Law has been given.

H. T. Curving, Clerk.

$$\begin{array}{r}
 41.00 \\
 84 \\
 84 \\
 \hline
 209.00
 \end{array}$$

$ \begin{array}{r} \$219.50 \\ 10.98 \\ 29.47 \\ \hline 40.00 \\ \hline 40.42 \end{array} $	$ \begin{array}{r} 219.50 \\ 41 \\ \hline 178 \\ \hline 88 \end{array} $
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The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *Nancy Orr, Larina T.*
Orr and Sarah H. Embarger

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held
for the said court, on the ~~1st~~ *2nd* Monday in *April* 188*7*, to answer a
bill in chancery exhibited against *them* in our said court by *W. J. Miles-*
ham

And have then there this writ. Witness, *H. T. Ewing* ~~A. B. Munsey~~, Clerk of our said Court, at the
court-house, the *29th* day of *March* 188*7*, and in the 128th year of the
Commonwealth.

H. T. Ewing clerk

W. J. Milcham

vs.

SUBPOENA

IN CHANCERY

Nancy Orr et al

M. G. Ely

p. q.

To 2nd April Rules.

Circuit

Court.

Executed, on the 2nd day of
April, 1904 by delivering
a true copy of this within
summons to Savina S.

Ger. Nancy Orr and
Sarah K. Ambrose.

This April 2nd, 1904

J. J. Hughes D. C. Ju
S. M. Bae
S. C. C.